

## Activists contest EPA actions on proposed mine

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DENVER—The Environmental Protection Agency is violating laws requiring public input by working behind closed doors to draft regulations for a proposed uranium mine in northern Colorado, activists said, citing agency documents obtained under the Freedom of Information Act.

The EPA said Thursday it isn't violating any laws but is collecting information in anticipation of a permit application from Powertech USA, which wants to mine uranium using technology that injects a solution underground to dissolve and extract the mineral.

Attorney Jeff Parsons of the Western Mining Action Project, which obtained the EPA documents, and Matt Garrington of Environment Colorado say any rules for so-called "in-situ" uranium mining should be devised publicly and on a national level.

"It's a national precedent they're setting here," Parsons said.

Many states have their own regulations for in-situ, or "in place," uranium mining. Colorado does not. Neither does South Dakota, where Powertech USA, based in suburban Denver, also wants to mine uranium.

The regional EPA office in Denver, which oversees both states, acknowledges in e-mails between the agency and a Powertech consultant that any permits for the projects "will be the first nationally that EPA would issue and directly regulate under a direct implementation program."

Agency spokesman Richard Mylott said that is why the EPA is talking to Powertech, state officials and others and collecting information about the site, near the town of Nunn, about 70 miles north of Denver.

Mylott insisted the agency work is in anticipation of a permit application and that "no program policy, guidance or rulemaking" is under way.

"If Powertech applies for a Class III permit, all relevant data and information will be fully disclosed for full review and comment by the public," Mylott said. A Class III permit allows injection of fluids in mining.

An Oct. 28, 2008, memo released as part of the FOIA documents says the regional office has developed "permit application guidance documents and policy statements regarding criteria and processes used for permit application review" and developing permit requirements.

Mylott said the internal document doesn't reflect the agency's current approach of focusing on specific conditions at each proposed mine.

Powertech already has applied for an EPA permit to mine near Edgemont, S.D. It would need state permits and licenses and the approval from Nuclear Regulatory Commission as well to operate.

Colorado residents are concerned about what the mine could do to groundwater quality in the quickly growing area. The Colorado Medical Society issued a resolution in 2007 opposing the mine because of possible health risks.

"We can't allow this to be done behind closed doors," said Cory Carroll, a Fort Collins doctor who promoted the resolution. "Things that get accomplished there are not always in the best interest of the public."

Richard Blubaugh, Powertech's vice president of environmental health and safety, insisted no decisions are being made in private.

The company has been talking to the EPA for about two years, and Blubaugh said he is unaware of any rule drafting that would guide the process of obtaining a permit.

"It's not about rules, it's about the interpretation of the rules," Blubaugh said of Powertech's meetings with the EPA.

An Oct. 28, 2008, agency memo on the permit process conceded that federal regulations "tend to be very general and do not provide detailed information helpful to companies developing permit applications."

Parsons agrees, noting current regulations were written in the 1980s. He said the problem is that the EPA appears to be fleshing out regulations while talking to Powertech, state officials and industry experts—in private. He pointed to an e-mail from Valois Shea, an official with the EPA's underground injection permit program, to a Powertech consultant as proof.

In the April 14, 2008, e-mail, Shea said Powertech gets to be "the pioneering guinea pig that will make life easier for others following in your path."

Parsons also said drafts of criteria the EPA could use to review mining sites address substantive issues. A June 6, 2008, draft includes descriptions of how to determine the area to be reviewed, and where groundwater would be affected.

"It defines the scope of the EPA's review, the area they're going to take a look at to determine where to mine," Parsons said. "They've embarked on a substantive review and update of their regulations without public involvement."

U.S. Sen. Mike Bennet and Rep. Betsy Markey, both Colorado Democrats, asked the regional EPA director in a letter last month to involve the public in any rulemaking because of concerns about mining and groundwater "near a population center of 300,000 people."

"The public has raised serious concerns over contamination and they deserve to be heard in public forums," Markey said in a statement Thursday.

EPA spokesman Mylott said the agency takes its commitment "to transparency seriously and will continue to do so."

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On the Net:

U.S. Environmental Protection Agency, Region 8: <http://www.epa.gov/region8/>

Western Mining Action Project, <http://tinyurl.com/yjo3bnb>